

# Weekly Legislative Update

For the Week Ending May 21, 2021

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## ■ News/Notes

*Today marks the 131<sup>st</sup> day of the 55<sup>th</sup> Legislature, 1<sup>st</sup> Regular Session.*

- The budget may be introduced as early as Monday.
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## ■ Posted Committee Hearings

- None at this time
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## ■ Bill Summaries

*The following bills are being reviewed internally for impacts to the Department and the State's water resources. If the Department has taken a position on a bill it will be noted. (the following bills do not represent the extensive list of bills ADWR Legislative Affairs is tracking.)*

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### House of Representatives

#### **HB 2035:** ~~appropriation; Arizona water protection fund~~ **NOW: parental rights; sex education instruction**

**Summary:** Numerous changes to statutes relating to sex education in public schools. School districts and charter schools are prohibited from providing sex education instruction before the 5th grade. Schools are required to obtain signed, written consent from a student's parent or guardian before providing sex education instruction to the student. At the same time as seeking consent, the school is required to inform the parent or guardian of the right to review the instructional materials and activities. School districts and charter schools are required to make the sex education curricula available for parents to review online and in person. Before a school district or charter school offers sex education instruction, the school district governing board or charter school governing body is required to review and approve the sex education course of study and ensure compliance with statute. Before approving any sex education course of study, the course must be available for review and public comment for at least 60 days and the school board must conduct at least two public hearings. Does not prohibit age and grade appropriate classroom instruction regarding child assault awareness and abuse prevention. By December 15, 2021, each school district and charter school that offers any sex education instruction is required to review its course of study and revise it to comply with this legislation.

**First sponsor:** Rep. Griffin (R - Dist 14)

**Disposition:** 5/17 Passed the Senate 16-13

**ADWR Position:** Neutral

#### **HB 2040:** dam safety study committee

**Summary:** Establishes a 7-member Dam Safety Study Committee to collect information on the status of dams in Arizona with respect to their safety, age and need for maintenance. The Committee is required to submit a report of its findings to the Governor and the Legislature by December 31, 2021, and self-repeals July 1, 2022.

**First sponsor:** Rep. Griffin (R - Dist 14)

**Disposition:** 4/6 passed Rules [strike everything amendment](#)  
**ADWR Position:** Neutral

**HB 2041:** *groundwater replenishment reserves*

**Summary:** Modifies the calculation for groundwater replenishment reserve targets for active management areas within a multi-county water conservation district.

**First sponsor:** Rep. Griffin (R - Dist 14)

**Disposition:** 2/18 Signed by the Governor Chap. 21, Laws 2021.

**ADWR Position:** Neutral

**HB 2056:** *water conservation notice; no forfeiture*

**Summary:** Beginning on the effective date of this legislation, a person who is entitled to the use of water is authorized to file with the Department of Water Resources a water conservation plan notice. Information that must be included in the notice is listed. On filing a water conservation plan notice, the conservation of water pursuant to the plan does not constitute abandonment or forfeiture of the water conserved. A person cannot accrue long-term storage credits for any water that is conserved in a water conservation plan notice. A water conservation plan is required to designate a duration of up to 10 years, and the person filing the notice may file a subsequent notice for one or more periods of up to 10 years. Contains a legislative intent section stating that the Legislature intends that this act apply prospectively only.

**First sponsor:** Rep. Griffin (R - Dist 14)

**Disposition:** 2/18 signed by the Governor Chap. 22, Laws 2021

**ADWR Position:** Neutral

**HB 2078:** *groundwater; waterlogged area exemption; date*

**Summary:** The exemption from irrigation water duties for persons entitled to use groundwater under an irrigation grandfathered right is extended ten years, to December 31, 2034. The exemption from any applicable conservation requirements for the distribution of groundwater for the Arlington Canal Company, the Buckeye Water Conservation and Drainage District and the St. John's Irrigation District is extended ten years, to December 31, 2034. The Director of the Department of Water Resources is required to submit a recommendation to the Governor and the Legislature by November 15, 2031 regarding extending these exemptions.

**First sponsor:** Rep. Dunn (R - Dist 13)

**Disposition:** 2/5 signed by governor; Chap. 4, Laws 2021

**ADWR Position:** Support

**HB 2249:** *state lands; leases; renewal applications*

**Summary:** The State Land Department (SLD) is required to accept lease renewal applications by mail and is allowed to accept renewal applications electronically. The method by which the renewal application is submitted cannot be a factor in the SLD's determination of whether to renew the lease. Session law requires the State Land Commissioner and the Director of Water Resources to consult, use the resources of their respective departments and cooperate to develop a plan to create additional water storage in Arizona that includes preliminary investigating acceptable sites to construct new water storage facilities on state trust land and identifying at least six of the most potentially acceptable sites. The Commissioner and the Director are required to submit a report of findings and recommendations to the Governor and the Legislature by December 31, 2021. Water storage plan requirements self-repeal January 1, 2024.

**First sponsor:** Rep. Griffin (R - Dist 14)

**Disposition:** 2/24 signed by governor; Chap. 33, Laws 2021

**ADWR Position:** Neutral

**HB 2336: assured water supply; subdivisions**

**Summary:** For an application to modify or renew a designation of assured water supply in the Pinal Active Management Area, the Department of Water Resources is prohibited from reviewing the physical availability of groundwater that was determined to be physically available under the previous designation. The following are deemed physically available for purposes of an assured water supply designation: stored water that is to be recovered by the applicant within the "area of impact" (defined) on an annual basis or under long-term storage credits pledged to the designation, and physically available water that will be stored within the area of impact on an annual basis or as long-term storage credits in the future. For the purposes of statute governing an assignment of a certificate of assured water supply, and for a holder of a certificate of assured water supply for a platted subdivision, an increase in the total number of housing units does not constitute a material change in the subdivision plat, plan or map. Contains a legislative intent section.

**First sponsor:** Rep. Pratt (R - Dist 8)

**Disposition:** 2/3 substituted for SB 1274

**ADWR Position:** Neutral

**HB 2388: water supply development fund; appropriation**

**Summary:** The list of circumstances under which a water provider may qualify for monies in the Fund is expanded to include water providers located in a county with a population of less than 1.5 million persons (all except Maricopa County). For the purpose of water infrastructure finance programs, the definitions of "water provider" and "water supply development" are modified.

**First sponsor:** Rep. Griffin (R - Dist 14)

**Disposition:** 4/20 signed by governor. Chap. 262, Laws 2021

**HB 2441: water; substitute acreage**

**Summary:** A person who owns acres of land that may be irrigated lawfully is authorized to permanently retire those acres from irrigation and substitute for those acres the same number of acres in the same contiguous farming unit if the owner demonstrates to the Department of Water Resources (DWR) that the legally irrigated acres were damaged by "floodwaters" after being irrigated and that it is not economically feasible to restore the flood damaged acres to irrigation use. A person who owns contiguous acres of land that may be irrigated lawfully is authorized to notify DWR to permanently retire a portion of those acres from irrigation and substitute for the retired acres the same number of acres within the same farm unit, if all of a list of specified conditions apply, including that a "limiting condition" associated with the acres to be retired from irrigation substantially impedes the implementation of efficient irrigation practices on the legally irrigated acres. Does not affect the person's existing or vested rights to the use of water.

**First sponsor:** Rep. Griffin (R - Dist 14)

**Disposition:** 3/23 signed by governor; Chap. 85, Laws 2021

**ADWR Position:** Neutral

**HB 2576: water rights; general adjudications; funding**

**Summary:** creates a fund coadministered by the Supreme Court and Department for the purposes of water rights adjudications. Appropriates money for that purpose.

**First sponsor:** Rep. Griffin (R - Dist 14)

**Disposition:** 2/16 passed House Nat Res

**HB 2577: *appropriation; water supply study***

**Summary:** appropriates \$5m to the Department for the study of water supplies to this State.

**First sponsor:** Rep. Griffin (R - Dist 14)

**Disposition:** 3/9 Passed Sen Appropriations

**ADWR Position:** Neutral

**HB 2691: *ADEQ; water quality programs; WOTUS***

**Summary:** The term “waters of the United States” or “WOTUS” replaces the term “navigable water” in various statutes in order to conform to changes in the federal Clean Water Act. The Arizona Department of Environmental Quality (ADEQ) is required to adopt rules for water quality standards for non-WOTUS protected surface waters by December 31, 2022, and requirements for the rules are specified. ADEQ is required to maintain and publish a protected surface waters list, and to adopt the list by rule no later than December 31, 2022. Waters that ADEQ must include and waters that ADEQ is prohibited from including on the protected surface waters list are specified. By December 31, 2022 and at least once every five years after, ADEQ is required to prepare a list of impaired non-WOTUS protected surface waters. Establishes special provisions for discharges to non-WOTUS protected surface waters. Requires ADEQ to adopt rules for best management practices for activities within non-WOTUS.

**First sponsor:** Rep. Griffin (R - Dist 14)

**Disposition:** 5/5 Signed by Governor Chap. 325, Laws 2021.

**HB 2778: *stream adjudications; cooperative extension; appropriation***

**Summary:** A university under the jurisdiction of the Arizona Board of Regents is authorized to offer pro bono assistance to claimants in the general stream adjudication of water rights who are not represented by counsel and whose adjusted gross income for any of the preceding three years is less than 500 percent of the federal poverty guidelines. Any university that offers such assistance is required to cooperate and coordinate with the faculty of a cooperative extension in Arizona that has a program to support the economic vitality of rural communities and the use of natural resources in those communities. By November 15 of each year, a university that offers such assistance is required to submit a written report of assistance activities to the Governor and the Legislature. Appropriates \$500,000 from the general fund in FY 2021-22 to the University of Arizona for distribution to the natural resource users law and policy center within the Arizona cooperative extension to assist claimants in the general stream adjudication of water rights.

**First sponsor:** Rep. Griffin (R - Dist 14)

**Disposition:** 3/16 Passed Senate Appropriations

**ADWR Position:** Neutral

**HCM 2003: *Colorado river; urging augmentation***

**Summary:** The Legislature urges the U.S. Department of the Interior to immediately take all necessary measures to fulfill its obligations to provide for Colorado River water augmentation and conservation. The Secretary of State is directed to transmit copies of this memorial to the Secretary of the U.S. Department of the Interior, the President of the U.S., the President of the U.S. Senate, the Speaker of the U.S. House and each member of Congress from Arizona.

**First sponsor:** Rep. Griffin(R - Dist 14)

**Disposition:** 4/1 passed Senate 16-12; ready for Secretary of State.

**HCM 2004: *floodwater harvesting; study; urging Congress***

**Summary:** The Legislature urges the U.S. Congress to fund a technological and feasibility study of the development of a diversion dam and pipeline to harvest floodwater from the Mississippi River to replenish the

Colorado River and prevent flood damage along the Mississippi river. If feasible, the Legislature urges the U.S. Congress to implement the diversion dam and pipeline as a partial solution to the water supply shortage in Lake Powell and Lake Mead and the flood damage that occurs along the Mississippi river. The Secretary of State is directed to transmit copies of this memorial to the President of the U.S. Senate, the Speaker of the U.S. House, the Governors of Arkansas, Illinois, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Tennessee, and Wisconsin, and each member of Congress from Arizona.

**First sponsor:** Rep. Dunn (R - Dist 13)

**Disposition:** 5/11 passed Senate 23-7; **ready for secretary of state.**

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## **Senate**

### **SB 1021: *groundwater; waterlogged area exemption; date***

**Summary:** The exemption from irrigation water duties for persons entitled to use groundwater under an irrigation grandfathered right is extended ten years, to December 31, 2034. The exemption from any applicable conservation requirements for the distribution of groundwater for the Arlington Canal Company, the Buckeye Water Conservation and Drainage District and the St. John's Irrigation District is extended ten years, to December 31, 2034. The Director of the Department of Water Resources is required to submit a recommendation to the Governor and the Legislature by November 15, 2031 regarding extending these exemptions.

**First sponsor:** Sen. Kerr (R - Dist 13)

**Disposition:** 1/28 **substituted for HB 2078**

**ADWR Position:** **Support**

### **SB 1147: *water banking; storage credits; subcontractors***

**Summary:** The Arizona Water Banking Authority is authorized to distribute long-term water storage credits to Central Arizona Water Conservation District's (CAWCD) municipal and industrial subcontractors. Long-term water storage credits that are distributed to a CAWCD municipal and industrial subcontractor cannot be sold, and the subcontractor is responsible for all fees assessed by the Authority or the Department of Water Resources for the distribution of the long-term storage credits and all costs of recovery of the long-term storage credits.

**First sponsor:** Sen. Kerr (R - Dist 13)

**Disposition:** 4/14 **signed by the governor. Chap. 227, Laws 2021.**

### **SB 1274: *assured water supply; subdivisions***

**Summary:** In the Pinal Active Management Area, for an application to modify or renew a designation of assured water supply, or for a new application for a designation for the same service area to be served by a substitute provider acquiring the assets of the prior provider, if specified conditions apply to the volume of groundwater and stored water, the Department of Water Resources (DWR) is prohibited from reviewing the physical availability of groundwater that was determined to be physically available under the previous designation. Does not affect the DWR review of assured water supply criteria other than the physical availability of groundwater and stored water to be recovered outside the area of impact of storage. The following are deemed physically available for purposes of an assured water supply designation: stored water that is to be recovered by the applicant within the "area of impact" (defined) under long-term storage credits pledged to the designation, and stored water that is to be recovered by the applicant within the area of impact of storage either on an annual basis or as long-term storage credits to be earned in the future if the water to be stored meets the physical availability requirements for the water supply. Contains a legislative intent section.

**First sponsor:** Sen. Shope (R - Dist 8)

**Disposition:** 2/12 signed by Governor Chap. 17, Laws 2021.

**ADWR Position:** Neutral

**SB 1366:** *remediated water; groundwater; use (Striker)*

**Summary:** If groundwater is withdrawn within an active management area (AMA) and is not reinjected into the aquifer, the groundwater is required to be put to reasonable and beneficial use within the same AMA, either for the use of the municipality or private water company in whose service area the groundwater is withdrawn, or used according to a grandfathered right. A person who receives groundwater from a person withdrawing groundwater as part of a remedial action is not required to pay for the groundwater or the costs associated with the remedial action, unless otherwise responsible for the cost of remedial action, and the person must use the groundwater only according to specified sections of the Groundwater Code. Session law requiring the Department of Water Resources (DWR) to include in its management plans provisions to encourage the beneficial use of groundwater that is withdrawn under approved remedial action projects is made permanent. A declaration that the use of up to an aggregate of 65,000 acre-feet of groundwater withdrawn within all AMAs according to approved remedial action projects must be considered consistent with the management goal for the AMA, and providing for specified amounts in excess of that aggregate limit to be included in the consideration which session law applied to each calendar year until 2025, is moved to permanent law and applies to each calendar year until 2050. By January 1, 2025, the Director of DWR is required to amend assured water supply rules to carry out the purposes of this legislation. Before the amendment of these rules, the Director is required to treat any groundwater withdrawn pursuant to an approved remedial action project as consistent with the management goal as provided in this legislation.

**First sponsor:** Sen. Kerr (R - Dist 13)

**Disposition:** 4/20 signed by governor. Chap. 272, Laws 2021

**SB 1368:** *water conservation notice; no forfeiture*

**Summary:** Beginning on the effective date of this legislation, a person who is entitled to the use of water is authorized to file with the Department of Water Resources a water conservation plan notice. Information that must be included in the notice is listed. On filing a water conservation plan notice, the conservation of water pursuant to the plan does not constitute abandonment or forfeiture of the water conserved. A person cannot accrue long-term storage credits for any water that is conserved in a water conservation plan notice. A water conservation plan is required to designate a duration of up to 10 years, and the person filing the notice may file a subsequent notice for one or more periods of up to 10 years. Contains a legislative intent section stating that the Legislature intends that this act apply prospectively only.

**First sponsor:** Sen. Kerr (R - Dist 13)

**Disposition:** 2/11 substituted for HB 2056 passed 29-0

**SB 1413:** *state lands; leases; renewal applications*

**Summary:** The State Land Department (SLD) is required to accept lease renewal applications by mail and is allowed to accept renewal applications electronically. The method by which the renewal application is submitted cannot be a factor in the SLD's determination of whether to renew the lease. Session law requires the State Land Commissioner and the Director of Water Resources to consult, use the resources of their respective departments and cooperate to develop a plan to create additional water storage in Arizona that includes preliminary investigating acceptable sites to construct new water storage facilities on state trust land and identifying at least six of the most potentially acceptable sites. The Commissioner and the Director are required to submit a report of findings and recommendations to the Governor and the Legislature by December 31, 2021. Water storage plan requirements self-repeal January 1, 2024.

**First sponsor:** Sen. Kerr (R - Dist 13)

**Disposition:** 2/9 **substituted for HB 2249**

**SB 1446:** *groundwater replenishment reserves*

**Summary:** Modifies the calculation for groundwater replenishment reserve targets for active management areas within a multi-county water conservation district.

**First sponsor:** Sen. Kerr (R - Dist 13)

**Disposition:** 2/11 **substituted for HB 2041**

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